

Drugs Act. The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On June 17, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

**26052. Adulteration of corn gluten feed. U. S. v. 700 Bags of Corn Gluten Feed. Consent decree of condemnation and destruction. (F. & D. no. 37529. Sample no. 61034-B.)**

This case involved a lot of corn gluten feed that was water-soaked and moldy because of flood damage.

On April 1, 1936, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 700 bags of corn gluten feed at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about March 14, 1936, by the Corn Products Refining Co., from Peoria, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Buffalo Corn Gluten Feed. \* \* \* Corn Products Refining Co., New York."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On April 17, 1936, the Corn Products Sale Co., having intervened and admitted that the product should be condemned since it had been damaged by flood water, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

**26053. Misbranding of beer. U. S. v. 269 Cases of Beer. Default decree of condemnation. Product turned over to the Treasury Department. (F. & D. no. 37542. Sample no. 64393-B.)**

This case involved shipment of beer that contained less alcohol by volume than the amount indicated on the label.

On April 3, 1936, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 269 cases of beer at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about March 28, 1936, by the Terre Haute Brewing Co., Inc., from Terre Haute, Ind., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Bottles) "Champagne Velvet Beer Terre Haute Brewing Company, Inc. Terre Haute, Indiana"; (neck label) "Superstrong. Not over 12½ per cent proof spirits."

The article was alleged to be misbranded in that the statement on the neck label, "Super-strong—not over 12½% proof spirits", was misleading and tended to deceive and mislead the purchaser when applied to a product that contained only 5.47 percent of alcohol by volume, and less than 12½ percent proof spirits; and in that the label was further misleading and tended further to deceive and mislead the purchaser by reason of the fact that the numerals "12" were about eight times larger than the other reading matter upon said label.

On April 25, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to the Treasury Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

**26054. Misbranding of beer and ale. U. S. v. 431 Cases of Beer and 199 Cases of Ale. Default decrees of condemnation. Products delivered to Treasury Department. (F. & D. nos. 37543, 37544. Sample nos. 64394-B, 64395-B.)**

These cases involved shipments of beer and ale that contained less alcohol by volume than the amount indicated on the respective labels.

On April 3, 1936, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 431 cases of beer and 199 cases of ale at Atlanta, Ga., alleging that the articles had been shipped in interstate commerce on or about January 14, and March 10, 1936, by the Frank Fehr Brewing Co., from Louisville, Ky., and charging misbranding in violation of the Food and Drugs Act. The articles were labeled in part: (Main label) "Fehr's Kentucky Beer [or "Fehr's Darby Ale Old Style"] \* \* \* Frank

Fehr Brewing Co., Incorporated, Louisville, Ky." The neck labels read, "Brewed Fehr's Fehr's in over 13% Original Extract" and Brewed in over 14% Original Extract", Beer Ale respectively.

The articles were alleged to be misbranded in that the statements on the labels, "Fehr's 13% Beer Brewed in 13% Original Extract" and "Fehr's 14% Ale Brewed in over 14% Original Extract", were false and misleading and tended to deceive and mislead the purchaser when applied to beer and ale containing 4.8 percent and 5.95 percent, respectively, of alcohol by volume. The statement on the label of the ale was alleged further to be misleading and deceptive by reason of the fact that the numerals "14" were larger than other reading matter upon said label.

On April 25, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be delivered to the Secretary of the Treasury.

W. R. GREGG, *Acting Secretary of Agriculture.*

**26055. Misbranding of canned cherries. U. S. v. 25 Cases of Canned Cherries. Default decree of condemnation. Product delivered to a charitable organization. (F. & D. no. 37545. Sample no. 53461-B.)**

This case involved canned cherries which were substandard because of the presence of an excessive number of pits and which were not labeled to indicate that they were substandard.

On April 3, 1936, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 cases of canned cherries at San Diego, Calif., alleging that the article had been shipped in interstate commerce on or about February 26, 1936, by the Western Oregon Packing Corporation, from Corvallis, Oreg., and charging that the article was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: (Case) "Fenwick Brand R S P Cherries Packed for Youngs Market San Diego, California"; (cans) "Water Pack Pitted Red Sour Cherries \* \* \* Approved for Color Flavor Quality Fill by Fenwick Packed For James Fenwick Company Portland, Ore."

The article was alleged to be misbranded in that the cases were labeled or branded so as to deceive or mislead the purchaser, since they failed to show that the product was water-packed, and in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On April 27, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to some charitable or welfare organization.

W. R. GREGG, *Acting Secretary of Agriculture.*

**26056. Adulteration and misbranding of plum preserves. U. S. v. Two Cases of Alleged Plum Preserves. Default decree of condemnation and destruction. (F. & D. no. 37551. Sample no. 62618-B.)**

This case involved a shipment of plum preserves that contained less fruit and more sugar than a standard preserve, and that also contained added pectin and water.

On April 6, 1936, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two cases of alleged plum preserves at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about October 15, 1935, by Lutz & Schramm Co., from Pittsburgh, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Jar, main label) "L. & S. Pure Preserves, Lutz & Schramm Co., Pittsburgh, Pa."; (strip label) "Pure Plum Preserves \* \* \* Guaranteed Pure."

The article was alleged to be adulterated in that sugar, pectin, and water which should have been removed by boiling, had been mixed and packed with the article so as to reduce or lower its quality; in that a mixture of fruit, sugar, pectin, and water containing less fruit and more sugar than preserves, had been substituted for preserves, which article purported to be; and in that